

otherwise have terminated, the Office will advise the official superior and the employee of the period of disability which is approved, and the official superior may require the employee to resolve any overpayment in accordance with § 10.201(e) of this subpart.

(g) Where return to suitable work results in a loss of pay such as premium pay, Sunday pay, holiday pay, night or shift differential, etc., continuation of pay will be granted for the lost elements of pay (see § 10.205(d) of this subpart).

[52 FR 10518, Apr. 1, 1987]

Subpart D—Payment of Compensation

COMPENSATION RATES

§ 10.300 Maximum and minimum compensation.

(a) *Disability.* Compensation for disability may not exceed 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule, except insofar as provided in paragraph (c) below. For total disability, it may not be less than 75 percent of the monthly pay of the first step of grade 2 of the General Schedule or actual pay, whichever is less.

(b) *Death.* Compensation for death is computed on a minimum pay equal to the first step of grade 2 of the General Schedule. The total compensation may not exceed the employee's pay or 75 percent of the monthly pay of the highest step of grade 15 of the General Schedule, except that compensation is allowed to exceed the employee's monthly pay if such excess is created by authorized cost of living increases.

(c) *Exclusion from maximum compensation rate.* The provisions in paragraph (a) above concerning the maximum rate of compensation do not apply to any employee whose disability is a result of an assault which occurs during an assassination or attempted assassination of a Federal official described under section 351(a) or 1751(a) of title 18, and was sustained in the performance of duty.

[40 FR 6877, Feb. 14, 1975, as amended at 54 FR 52024, Dec. 20, 1989]

§ 10.301 Temporary total disability rate.

(a) Compensation based on loss of wages is payable, subject to the provisions of 5 U.S.C. 8117, after the expiration of continuation of pay as provided by subpart C of this part or from the beginning of pay loss in all other cases.

(b) When an injured employee loses pay due to temporary total disability resulting from an injury, compensation is payable at the rate of 66⅔ percent of the pay rate established for compensation purposes. The compensation rate is increased to 75 percent when there are one or more dependents. Dependents include a wife or husband; an unmarried child under 18 years of age or if over 18, incapable of self-support, or a student (until reaching 23 years of age or completing four years of school beyond the high school level); or a wholly dependent parent. Compensation begins when the employee starts to lose pay if the injury causes permanent disability or if there is pay loss for more than 14 days, otherwise compensation begins on the fourth day after pay stops. Compensation may not be paid while an injured employee receives pay for leave or is otherwise in a continuation of pay status. The employee has the right to elect whether to receive pay for leave or to receive compensation.

[40 FR 6877, Feb. 14, 1975, as amended at 52 FR 10518, Apr. 1, 1987]

§ 10.302 Permanent total disability rate.

When the injury causes permanent total disability, an injured employee is entitled to total disability compensation until death unless the employee is medically or vocationally rehabilitated to either full or partial earning capacity. The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes is prima facie evidence of permanent total disability. However, the presumption of permanent total disability as a result of such loss is rebuttable by evidence to the contrary, such as evidence of sustained work and earnings despite the loss. Compensation for permanent total disability is payable at the rate of 66⅔ percent of the pay rate established for